



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-469-823]

#### Utility Scale Wind Towers from Spain: Final Determination of Sales at Less Than Fair Value

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of utility scale wind towers (wind towers) from Spain are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019, through June 30, 2020.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Benito Ballesteros or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7425 or (202) 482-0413, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 2, 2021, Commerce published in the *Federal Register* its affirmative preliminary determination in the LTFV investigation of wind towers from Spain.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion

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<sup>1</sup> See *Utility Scale Wind Towers from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 17354 (April 2, 2021) (*Preliminary Determination*).

of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup>

### Scope of the Investigation

The products covered by this investigation are wind towers from Spain. For a full description of the scope of this investigation, *see* Appendix I of this notice.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

### Verification

As stated in the *Preliminary Determination*, after being selected as the mandatory respondent, Vestas Eolica S.A.U. (Vestas) discontinued its participation in this investigation. Accordingly, Commerce based the *Preliminary Determination* entirely on the application of facts available with adverse inferences (AFA), and did not conduct verification under section 782(i) of the Tariff Act of 1930, as amended (the Act).

### Use of Adverse Facts Available

In the *Preliminary Determination*, Commerce found that Vestas failed to participate to the best of its ability in this investigation. We also found six other companies did not cooperate in this investigation by failing to provide a timely response to Commerce's quantity and value

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<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Spain," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

(Q&V) questionnaires. These companies are: Acciona Windpower S.A.; Gamesa Energy Transmission; Haizea Wind Group; Kuzar Systems, S.L.; Proyecto Integrales y Logísticos S.A.A. (Proinlosa); and Windar Revonables. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, we assigned these companies dumping margins based on total AFA. In applying total AFA, we assigned an estimated weighted-average dumping margin of 73.00 percent, the sole dumping margin alleged in the Petition,<sup>3</sup> which is the only dumping margin information on the record of this investigation, and which Commerce corroborated to the extent practicable within the meaning of section 776(c) of the Act.

With respect to Proinlosa, in light of information provided following the *Preliminary Determination*, we determine that Proinlosa attempted to contact Commerce in a timely manner regarding the Q&V questionnaire in an effort to timely submit its Q&V questionnaire response. Accordingly, having considered the facts and circumstances surrounding Proinlosa's Q&V response, we no longer find that application of total AFA is appropriate with respect to Proinlosa. For further discussion of our decision concerning Proinlosa, *see* the Issues and Decision Memorandum. For all other companies, *i.e.*, Vestas and the five companies that failed to respond to Commerce's Q&V questionnaire, we continue to find the application of total AFA, pursuant to sections 776(a) and (b) of the Act, is warranted.

#### Changes Since the *Preliminary Determination*

Based on our analysis of comments received, we have modified our treatment of Proinlosa.

#### All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the estimated weighted-average dumping margin for all other producers and exporters on the only dumping

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<sup>3</sup> *See* Petitioner's Letter, "Utility Scale Wind Towers from India, Malaysia and Spain: Petitions for the Imposition of Antidumping and Countervailing Duties," dated September 30, 2020 (Petition).

margin alleged in the Petition, pursuant to section 735(c)(5)(B) of the Act. We made no changes to this rate for this final determination.

#### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Exporter/Producer</b>	<b>Dumping Margin (percent)</b>
Vestas Eolica S.A.U.	73.00
Acciona Windpower S.A.	73.00
Gamesa Energy Transmission	73.00
Haizea Wind Group	73.00
Kuzar Systems, S.L.	73.00
Windar Renovables	73.00
All Others	73.00

#### Disclosure

The estimated weighted-average dumping margins assigned to the mandatory respondent and non-responsive companies in this investigation are based on total AFA. These rates are based on information from the Petition, and are unchanged from the *Preliminary Determination*. Accordingly, there are no calculations to disclose for this final determination.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of wind towers from Spain, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after April 2, 2021, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin

identified for that company; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of wind towers from Spain no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 14, 2021.

Christian Marsh,  
Acting Assistant Secretary for Enforcement and Compliance.

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes Since the *Preliminary Determination*
- V. Discussion of the Issues
  - Comment 1: Whether Commerce Should Have Selected Siemens Gamesa Renewable Energy (SGRE) as a Mandatory Respondent
  - Comment 2: Whether Commerce Should List All Non-Responsive Companies in the *Federal Register* Notice
- VI. Recommendation

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